

HENS WITH THEIR HEADS OFF

WHITRIDGE HOPEFULLY SUB-
VEYS THE LOCAL P. S. BOARD.

They're going, he thinks. Now their
P. S. is no longer in power to cherish
his lame and blind offspring. Re-
port to Third Avenue bondholders.

F. W. Whitridge, receiver of the Third
Avenue Railroad Company, in a report
prepared for submission to bondholders
concedes to the Public Service Commission
of this district "no more common sense
than a hen." He will send with his re-
port to-day a document of 300 pages con-
taining the correspondence between him-
self and the commission in the four years
since the Third Avenue went into the
hands of a receiver. Most of the corre-
spondence relates to petty orders of the
commission. Mr. Whitridge thinks the
commission ought to be abolished. He
says by way of introduction to the volume
of correspondence:

"The commission has issued itself a good
deal of the nature of the railroad
results, but the value of the money and the
value of the time of the unfortunate owners
of these railroads and of the people con-
cerned have apparently been neglected
considered, with results which are shameful.
The commission has cost the Third Avenue
Railroad directly upward of \$150,000 down to
date. Indirectly it has damaged it to an
incalculable amount. When it comes
to the people at large, this commission has
cost them down to the first of November
\$4,042,958.57. It has issued 1,251 final orders
and heaven knows how many of an inter-
locutory character. This up-State com-
mission on the other hand, which is gen-
erally recognized as a sensible and benev-
olent body, has spent during its existence down
to the first of October less than \$50,000, and
it has been able to discharge its duties by
making only 119 final orders.

Mr. Whitridge insists that he is dis-
interested in his criticism, for he is only
temporary guardian of bondholders' prop-
erty and owns nothing of the commission.
Personally, he says, he finds the
commission "collectively amusing and
individually rather amiable, though
perhaps Mr. Wilcox's disposition is not
so sweet as it was."

"But I confess," he adds, "that when I
read the letters of this commission, re-
flect upon their opinions, contemplate their
activities, when I consider the vexatious
confusion of the statutes and the
muddling administration of the law, I
am reminded of the saying of a distin-
guished journalist some years ago: 'This
is the hardest country in the world to
love.'"

In regard to the relations between the
Third Avenue and the commission, Mr.
Whitridge points out that there were sub-
mitted a reorganization plan providing
for a reduction of the fixed charges of the
company by about \$1,000,000, for more
than \$7,000,000 of new money, and for new
securities about \$1,000,000 less in the ag-
gregate than the old securities. The
commission refused to approve the plan,
and Mr. Whitridge has taken steps to es-
tablish it in the courts. This is the way
he describes the issue.

The commission would not distinguish
between a company which was already
capitalized and had an income and an
enterprise which was issuing securities
for the first time to secure capital for con-
struction. The commission thought that
the amount of securities to be issued for the
Third Avenue Railroad was to be decided
without reference to the old securities or
to the necessities of the situation of the
property, but solely with reference to the
value of the property.

Now value is a subjective conception, it is
not a dimension to be measured by an
external standard. The commission, how-
ever, has fixed the value of your property
not with regard to its cost, nor to the amount
of cash paid into it, nor to its earning ca-
pacity, nor to its actual earnings, nor to the
report of their own bureau of appraisers,
which they have had at work at great ex-
pense and without legal authority, they
have fixed it by asking their own engineer
about it, and from his appraisal they have
deducted a theoretical depreciation of
\$1,000,000, leaving about \$20,000,000 as the
amount of the new securities which may be
issued in exchange for \$25,000,000 of
old bonds and \$10,000,000 of stock of the
company, that is to say, a man who has
two bonds is invited to destroy one of
them, and it is perfectly useless to explain
to him that his property has suffered a
theoretical depreciation of \$1,000,000, be-
cause his own eyes enable him to see that
this is not the case. Moreover, every time
for the necessity of raising \$7,000,000 and
paying interest on it, his property would
appear to be now earning substantially
the whole of the interest upon the bonds he
paid for. To his mind, the commission in-
vites him to a senseless sacrifice. Their
activities, though of a different character,
seem to him to be more devastating and
more indefensible than the performances
of the old Metropolitan company which
the commission was supposed to be abol-
ishing, and he cannot be persuaded that the
commission is not "playing the fool" with
his property.

On the question of State control of
transportation corporations Mr. Whit-
ridge raises no objection to the general
principle, but he insists that the State
must "speak through men, and if those
men do not speak with a voice which
commands respect and are found adopt-
ing crude theories, like those about valua-
tion, which they cannot digest and which
they undertake to apply with no more
common sense than a hen, then the victims
at first and subsequently the whole public
become exasperated and cry, 'Away with
them! Away with them!' and away they
must go."

This is a note of despair and not justifi-
able, for we know that somehow or other
things right themselves. We are a very
large-headed people and Lincoln's epigram
"You cannot fool all the people all the time"
is profoundly true. So even in the case
of so powerful a body as the Public Service
commission in the First district, with the
people at first heavily prejudiced in their
favor, when it becomes obvious that they
have made a mess of their job something
must be done. Sometimes the victims of
the self-sufficiency of such a body's shatter-
ed and learn or resign. Sometimes pub-
lic disapproval, which has long been pas-
sively suffered, suddenly blows them away or some-
times a single Executive who is without the
partial affection for lame or blind off-
spring, which the Governor who appointed
him must be supposed to cherish, comes
to office and is able to view them with
a clear and open mind, and officially speak
of their activities, then or in some way
they are disposed of.

This commission in the First district
has, in my judgment, demonstrated that
it is a body of glass spring water.

DEAR BEAR SPRING WATER
is a body of glass spring water. —Ad.

they must return to the shades whence
they came. I think the people are at
this moment. By removal, consolidation
or resignation we must part with them
in the slang of the day they have not "made
good" and they must go.

Mr. Whitridge also refers feelingly to
the suit which the Public Service Com-
mission brought against him personally
to recover \$500,000 for alleged violation of
the commission's orders and which was
decided in his favor. He says the institu-
tion of the suit was "an unscrupulous
misuse of power" and could only have
been brought about "as a product of a
state of mind about corporations and
everybody connected with them which
I have just termed in this correspond-
ence 'stupid and insolent.'"

"Fortunately," he concludes, "courts
and juries know how to deal with such
cases."

SPAIN WON'T RAID PORTUGAL.

Canalejas Scouts Socialist Canards Al-
fonso's Melilla Visit.

MADRID, Jan. 4.—Prime Minister Canalejas
has issued an emphatic denial of the
statements by Socialists at various meet-
ings that Spain intends to intervene in
the affairs of Portugal and that she is
sending troops to the frontier. Señor
Canalejas says that Socialists formerly
imagined fantastic operations by the
Spanish forces in Morocco, and that they
are now spreading a canard that is
still more absurd than the stories they
told of alleged events in the vicinity of
Melilla.

King Alfonso, accompanied by his
aids and the Minister of Marine, has
returned from his hunting trip. Accord-
ing to present arrangements he will start
to-morrow on his trip to Melilla. There
has been, however, a severe hurricane
at Melilla and Prime Minister Canalejas
has telegraphed asking for details. If
the storm continues the voyage of the
King will be postponed.

A despatch from Melilla says that the
warships which are to take part in the
reception to the King were unable, owing
to the violence of the wind and sea, to
land the horses they have on board, which
are to be used in the reception ceremonies.
The chiefs of the Kabyle tribesmen are
in Melilla in readiness to salute the King
on his arrival.

It is persistently stated that the new
Ambassador to the Vatican will be Señor
Fermín Calbetón, who has just with-
drawn from the Cabinet, in which he
held the post of Minister of Public Works.

WAR ONLY IF GOMEZ RUNS.

Loyola del Castillo and Zayas Early Seek-
ers for Cuban Presidency.

HAVANA, Jan. 4.—Gen. Loyola del
Castillo has announced the candidacy of
Hernandez and himself for the Presidency
and Vice-Presidency. He says the only
thing that can cause war or American
intervention will be President Gomez
seeking reelection. He adds that the
country's worst cancer is the secret police,
which is made up of jailbirds.

Vice-President Zayas has also issued
a statement announcing his candidacy
for the Presidency. He deprecates so
early an agitation, but says he is unable
to restrain his friends. He does not
specify the second member of his ticket.
Gen. Pino Guerra announces that he will
campaign actively for Zayas, making
efforts to combine all elements which are
dissatisfied with the Gomez Administration,
including the Conservatives. Zayas
will start a newspaper to advance his
interests.

Meanwhile the Administration organs
are filled with arguments favoring the
reelection of Gomez and the Miguelistas
throughout the island are adopting resolu-
tions declaring in favor of Gomez.

Speaker Ferrera reiterates that Gen.
Gomez will not seek a re-election.

PERU READY TO ARBITRATE.

Issue of Peace or War in South America
Now Up to Ecuador.

LIMA, Jan. 4.—Peru has agreed to the
suggestion of the mediating Powers—the
United States, Brazil and Argentina—that
the boundary dispute with Ecuador be
submitted to the Hague tribunal for
arbitration. It is now up to Ecuador to
accept or reject the proposition.

WASHINGTON, Jan. 4.—The Peruvian
Government has accepted the suggestion
that the boundary dispute between Peru
and Ecuador, which has created friction
for many years, be submitted to the
arbitration of the Hague court. Its
acquiescence was reported to the State
Department to-day by Leslie Combs,
American Minister at Lima.

No reply has yet been received from
Ecuador.

FIRST REGISTERED LOBBYIST.

The Rev. O. B. Miller Files Papers—Some
Dramatic Measures He Will Work For.

ALBANY, Jan. 4.—The first person to
register as a lobbyist during this session
of the Legislature was the Rev. O. B.
Miller, State superintendent of the New
York Civic League. He filed his papers
yesterday.

Mr. Miller said that as the representa-
tive of the New York Civic League he
would work for the passage of a genuine
and effective direct nominations bill,
a bill to prohibit the publishing in all
of the newspapers or in any other manner
of all bets, orders or tips on races, a uni-
form divorce law, such as the Weimer
bill of last winter, and important amend-
ments to the State excise law. One
of the amendments will be to prohibit
any licensed liquor dealer from shipping
liquor into any no license town. Another
amendment to be urged is a bill to pro-
hibit all liquor selling on Sunday, even
by the hotels.

Brooklyn Bridge Trainless 30 Minutes.

Train traffic on the Brooklyn Bridge
was delayed for nearly half an hour yester-
day afternoon because a shoe on a car
of an eastbound train stuck to the third
rail near the Brooklyn tower. The train
stopped so suddenly that its passengers
were shaken. The lights in all the cars
went out. Passengers gathered on the
station platforms in such numbers that
they were ordered to the street until
the train was resumed. Many persons
walked the bridge rather than wait.

GOLDFERN TRAIN TO PINEBURST
for golf tournaments Jan. 4-14. Spl. train sta-
tion and drawing room cars. N. Y. & W. 6th,
135 P. M. N. Y. Seaboard Office, 1102 B'way.—Ad.

PEDIGREES BEFORE YOU SAIL

DEPARTMENT OF COMMERCE
WORRIES STEAMSHIP LINES.

Aliens Can't Fill Out Their Record Blanks
at Leisure at Sea Any More—Must
Turn Them In Before Going—Agents
Say This Means Delay for the Ships.

Agents of transatlantic steamship lines
at this and other American ports are in
a state of mind about a new regulation
requiring them to turn over to the De-
partment of Commerce and Labor im-
mediately after the sailing of the steam-
ships for foreign ports the pedigrees of
all alien outbound passengers. Until
this year the declarations of aliens travel-
ing in first and second cabin and steer-
age were taken aboard ship and mailed
to the Department of Commerce and
Labor after the liner had reached the
other side or were brought back by
her. The steamship folks say that the
enforcement of the new regulation will
result in the holding up of ships
sometimes two or three hours and a loss
of money as well as time to them, and
they are seeking to persuade the Gov-
ernment to modify the order.

At the bottom of each coupon furnished
to the lines for the pedigree of the pas-
senger is this warning:

"Ticket will not be accepted, and
holder will not be allowed to go on board
unless this coupon has been properly
filled out." This means that if an ig-
norant alien steerage passenger has not
answered the questions properly he may
be held up at the gangplank, and that
hundreds who come to the ships just
before the hour of sailing may delay the
departure for one, two or more hours.

The form of the blank, or coupon,
as it is officially designated, requires
the alien passenger to give family name,
given name, age, sex, the country of
which he or she is a subject or citizen,
race, the country of residence before
coming to the United States, the town
or city and State of residence in this
country, the country that the passenger
is going to live in and the occupation
of the passenger. A note at the top
of the coupon says: "If United States
citizen the fact should be stated and a
proximate age given. No other infor-
mation is required of United States citizens."

On the back of the coupon are para-
graphs for the guidance of clerks who
may take the declarations of aliens,
including a list of forty-six "races" of
men. If the alien is "unable to state
where he is going to live the answer
'undecided' may be recorded. If the
alien has been in the United States less
than two years the month of arrival
should also be given, and the day of the
month as nearly as possible, in order to
determine whether the alien has been
in the United States a year or more.

The steamship companies were notified
before the beginning of the year of the
new regulation, and they wanted to know
why the old method could not be kept in
force, declaring that the new would
cause them much loss of time and would
be expensive and troublesome. They
were informed that the Census Bureau
wanted swifter returns. They asked that
a committee of two or more representa-
tives of the Government should be sent
to this port to see how the scheme would
work before it was adopted. A steam-
ship man said yesterday that a committee
of one came here, and went to Hoboken,
where he found a liner going out with
about 120 passengers. He reported or
is said to have reported to Washington
that the scheme was feasible.

In the busy season sometimes more than
700 first and second cabin and 2,000 steer-
age passengers go east in a single ship,
and the lines do not see how they can get
these folks aboard if every coupon that
may be improperly filled out at the various
ticket agencies all over the country is to
be taken up at the pier, and amended
to suit the regularity. Then there is
the problem of filling out the coupon
for cabin passengers who come to the
pier at the last moment to take passage.

There are occasionally fifty or more of
this class, and that means certain delay
in the sailing of the ship or leaving the
dilatatory passengers behind.

Heretofore American citizens have not
appeared in the census slips. The old
regulation required the ticket agent
simply to indorse on the ticket that the
purchaser was a citizen.

TWO WOMEN IN SMASHED AUTO.

Myron H. Oppenheim's Car Hits a Street
Car and Then a Post.

An automobile belonging to Myron H.
Oppenheim, a lawyer, who lives at the
Hotel Netherlands, collided with a Lex-
ington avenue surface car at Seventy-
ninth street yesterday afternoon and
swerved against a post. Mrs. Oppen-
heim and Mrs. Sergei Kibansky of the
Hotel Woodward were in the machine
and neither was able to get out until a
policeman helped. Mrs. Oppenheim
was bruised, but refused to go to a
hospital and was taken in another machine
to her apartment. Mrs. Kibansky was
not injured.

The chauffeur and the motorman of
the car blamed each other. The motorman
said that the brakes refused to work
but that he rang the bell loudly enough
for the chauffeur to hear. Mr. Oppen-
heim said last night that he thought his
wife would be all right in a few days.

Fatal Overdose of Medicine Put Up by
His Father.

Armand G. Hitchcock, 19 years old,
of 55 Bellevue avenue, Newark, a student
at the Hefley civil engineering school
in Brooklyn, died at his home yester-
day afternoon from an overdose of a neurotic
remedy. The prescription was prepared
by the boy's father, Dr. William E. Hitch-
cock, on Tuesday. The young man took
the medicine through the day and wanted
more at night. It was given to him.
When he was called yesterday morning
he was found to be in a stupor. Three
physicians were summoned and they
worked over him with Dr. Hitchcock
for several hours.

"NEW YORK AND FLORIDA SPECIAL"
Effective Jan. 9th, 24th season of the finest train
operated to Florida, Cuba, South Penna. and
Atlantic Coast Line, 128 P. M. daily. 1215 B'way.
—Ad.

SHOT N. Y. CENTRAL OFFICIAL.

Telegrapher Put Four Bullets Into Super-
intendent Dinan—Killed Himself.

CORNING, N. Y., Jan. 4.—Nicholas
Honness, a discharged New York Central
telegraph operator, fired four bullets
this afternoon into the body of Daniel W.
Dinan, superintendent of the Pennsylv-
ania division of the New York Central.
Supt. Dinan will recover. His assailant
thinking that he had killed Dinan, fired
a bullet into his own brain and died at
7 o'clock to-night.

Until last January Honness was a tele-
graph operator at Lindley, twelve miles
from Corning. He came to Corning and
got drunk and flourished a revolver in
the railway station. He was discharged
by the railway company.

He came to Corning this afternoon to
plead to Supt. Dinan for his old job.
When he entered the superintendent's
office he exchanged a few words with
Mr. Dinan, who was dictating to his
private secretary, Miss Clara Kelly.

Then Honness began to swear and
suddenly he opened fire on Supt. Dinan.
The first bullet entered Mr. Dinan's left
shoulder. The second passed above his
right ear, inflicting a scalp wound. The
third cut his skin under the right arm.
The fourth struck his collar button,
glanced off and lodged in his jaw.

Supt. Dinan fell and Honness glanced
at him and then put the weapon to his
own head and fired. Supt. Dinan was
taken to the Corning hospital, where
he is expected to recover. Honness died
an hour later.

EXPRESS DRIVERS TO PRISON.

Five Go for Assaulting Man Who Said
Warner Murderers Should Be Punished.

Five former express wagon drivers were
sent to the penitentiary yesterday by
Judge Mulqueen in General Sessions for
assaulting Meyer Stone, who had de-
clared that the men who murdered John C.
Warner on the theory that he was a strike
breaker in Seventh avenue should be
punished.

Joseph Markowitz, who led the attack
on Stone, got six months, John Sims two
months and Harry Zehersberg, John
Dusey and John Frankenstein one month
each.

SHIP AND PIER ONE SNEEZE.

Longshoremen Breathe Through Sponges
Getting Out the Brandenburg's Pepper.

The North German Lloyd liner Branden-
burg when she departed for this port
from Bremen last week had a crew
that had been sneezing every day since
she loaded 10,000 sacks of peppercorns
that had been shaken up in heavy weather
for more than a week. Longshoremen
who removed some of the black pepper
series from the pier yesterday had more
sneezing spells. More than one hundred
longshoremen were on the job and they
came up out of the pepper-dusty hold
blowing their noses almost as fiercely as
the gales blew that had tossed the Branden-
burg about like a cockleshell and
ground some of the peppercorns to dust.
Capt. Moller, the pier superintendent,
ordered the men back to work again.
They demurred, but went. The next time
they came up they revolved. Capt. Moller
and the officers of the ship went down to
the situation and sneezed and came
up in a hurry a-choo-choo.

There was a consultation of nautical
and other talent, and the ship's doctor
suggested wet sponges for the noses of
the longshoremen. One hundred small
sponges were bought from several drug
stores in the neighborhood of the pier and
fastened under the noses of the long-
shoremen. Thus armed the longshoremen
worked with such recklessness that pepper
dust arose in volcanic clouds from the
hold and all the sailors, stokers, engineers
and officers on the ship were sneezing in
naughty chorus. The hawser strained
under the pressure and it looked as if
the ship would choo-choo herself to sea
again. But the skipper was equal to the
emergency. He sent a hurry order for
more sponges and every member of the
ship's company, so the yarn goes, was
wearing a sponge. Hereafter all North
German Lloyd Line pepper ships will
be equipped with sponges.

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before the beginning of the year of the
new regulation, and they wanted to know
why the old method could not be kept in
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THE DETROIT MAY FIGHT AGAIN

Rumored That Old Cruiser Is to Go to
Nicaragua.

BOSTON, Jan. 4.—Some mystery at-
taches to the departure from here to-day
of the old third class unprotected
cruiser Detroit, which left the navy
yard this morning for New York in tow
of the tug M. E. Luckenbach.

While the old vessel was purchased
by R. L. Corbett of New York for \$20,000
at the recent auction sale by the Gov-
ernment, it is reported that Edgar F.
Luckenbach was in reality the purchaser
of the Detroit. It is rumored that the
ultimate destination of the cruiser will
be part of the fleet of President Estrada
of that country.

It is said that Mr. Luckenbach has
admitted that the Detroit will be sold to
one of the republics south of the United
States. The tug Luckenbach will tow
the Detroit to South Brooklyn, where,
it is said, she will be delivered to her pro-
spective purchasers.

THIRTEEN KILLED IN WRECK.

North Coast Limited Runs Into Standing
Train in Yards at Cheney, Wash.

SPOKANE, Wash., Jan. 4.—Thirteen lives
are believed to have been lost in a wreck
to-day in the Northern Pacific yards at
Cheney. Ten or more persons were injured.

The North Coast Limited struck the
rear of a Burlington passenger train
which was taking a side track. Three
coaches were wrecked. Five bodies have
been recovered from the wreckage.
The Burlington train arrived in Cheney
in plenty of time to make the siding,
but an unexplained delay of five minutes
saw the cars stall on the main line, with
the North Coast coming at terrific speed
down the mile of straight track approach-
ing the yards.

The engineer of the North Coast train
applied the air brakes, but was unable
to get his train under control before it
crashed into the rear of the Burlington
at a speed estimated at from thirty-five
to forty miles an hour.

The locomotive ploughed through the
standing train for three car lengths before
it stopped.

FAILED BROKER A SUICIDE

A. M. JUDSON SHOTS HIMSELF
AT WRIGHT HOSPITAL.

Doctors Thought He Called Merely to Say
Happy New Year—Despondent Since
His Old Firm Suspended Last Month—
Entered Stock Exchange in 1900.

Alfred M. Judson, a member of the
Stock Exchange since 1900 and of the firm
of Judson & Judson of 25 Broad street,
which failed on December 17 last, killed
himself in the J. Hood Wright Hospital
last night by firing one bullet into his
head. He talked with persons in the
hospital just a few minutes before. His
business friends and family said that
since the failure of his firm he had seemed
depressed, although he continued to take
an interest in his business affairs.

At about 8 o'clock last night Mr. Judson
walked into the J. Hood Wright Hospital,
of whose board of managers he had been
a member for twenty-five years. He
met in the superintendent's office Super-
intendent Martens and several doctors
whom he knew, and wished them all a
happy New Year. He hoped that it
would bring better luck than the past
year had brought to him.

After he had talked with them for
a few minutes he went into a lavatory
adjoining the office. The doctors heard
a shot. They were unable to place it
at first, but Dr. Brewer ran into the lav-
atory and found Mr. Judson lying on the
floor with a revolver in his hand. The
doctor did what he could, but Mr. Judson
died.

Mr. Judson was 62 years old. He was
a specialist in New York Central stock
and for several years had the reputation
of acting as a Vanderbilt broker. Charles
Y. Judson and Percy W. Sherman were
the other members of the firm. When the
firm suspended C. Y. Judson said that the
assignment was the result of poor busi-
ness for the last few years. He esti-
mated the liabilities at about \$100,000
and hoped that the firm would be able
to pay 100 cents on the dollar. Charles M.
Homan, Frank W. Spencer and Hamilton
Pell filled the petition in bankruptcy
against the firm and A. Leo Everett was
appointed receiver by Judge Holt. Mr.
Everett estimated the liabilities at about
\$200,000 and the assets at \$140,000.

Soon after the failure A. M. Judson and
his family moved from their apartments
in the Hendrick Hudson, at 110th street
and Riverside Drive, to New Rochelle.
Mr. Judson, however, continued to come
to town and visit his office. Mr. Everett
saw him every day.

Yesterday afternoon Mr. Judson was
present at a hearing in Commissioner
Alexander's office in the Federal Building.
Later he dropped in to see Mr. Everett
at 70 Wall street. Mr. Everett said last
night that Mr. Judson appeared to be
discouraged and out of sorts, but said
nothing about ending his life.

William David Judson, the eldest son,
hurried down from New Rochelle last night
and took charge of his father's body. He
said that his father had not been well
since his leg was broken in an accident
in Central Park West more than a year ago.
Besides the two sons, William and Charles,
Mr. Judson is survived by his wife and a
daughter, Mrs. Alexander Howell. Alfred
M. Judson, Jr., who was a Rough Rider,
was killed in the Spanish war.

10 FIREMEN OVERCOME

By Smoke and Gas in a Building Ablaze
Five Times in One Year.

Ten firemen were overcome by smoke
mixed with gas in a cellar fire in the four
story brick tenement at 402 Third avenue
at 6 o'clock last night. It was the fifth
fire in the building in a year.

The janitor, James Shea, tried to enter
the cellar when he smelled smoke, but
was driven into the street. He and Po-
liceman Raymond went into the janitor's
flat on the first floor, covered Mrs. Shea
and her fifteen-month-old baby with a
blanket and carried them out. Then
they went back, found Mrs. Joseph Tur-
taub and her nine children and took them
to the roof, and across to the adjoining
roof, as the smoke was thick on the stairs.

While the firemen of engine companies
50 and 42 were working in the cellar the
gas connections melted. The ten men
who were overcome were hauled out
by members of Engine Company 32 and
revived in the street.

The fire was confined to the cellar and
the ground floor, which was occupied
by Spitzer & Geisinger, grocers. The
damage to the building was \$1,000 and
to the groceries \$500. In the Shea apart-
ment was 20 cents, which was all the
family had to last until Friday. Some-
body stole the money while the fire was
burning.

STANDEES BARRED.

Appellate Term Says Space Back of
Theatre Seats is an Aisle He Kept Open.

The Appellate Term of the Supreme
Court ruled yesterday that the space
back of the seats in a theatre must be
regarded as an "aisle or passageway"
under the statute providing for the col-
lection of a penalty by the Fire Com-
missioner against the lessee of a theatre
in which standees are found. In the
case in question Municipal Court Justice
Lynn had dismissed a suit for six violations
against the Dewey Theatre and the Ap-
pellate Term reversed him.

The lessee of the theatre also contended
that he was not present when the viola-
tions occurred and that he couldn't
be held liable because the firemen didn't
give him notice of the standees. The
Court says that he was the licensee and
that it was his duty to see that the aisles
and passageways were kept clear during
a performance.

"While a statute that imposes a penalty
must be strictly construed," says the
Court, "a statute such as this, which is
designed to protect